In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.W.P.No. 11655 of 2003
Decided on Nov 09,2006.

Arun Mittal --Petitioner

vs.

State of Haryana and others --Respondents.

Coram: Hon'ble Mr.Justice Jasbir Singh
Hon'ble Mr.Justice Pritam Pal

Present: Mr. Atul Lakhanpal,Advocate,for the petitioner

Mr. S.S.Pattar, Sr.DAG,Haryana.

Mr.Kamal Sehgal,Advocate,for respondent Nos. 2 and 3.

Jasbir Singh J:(Oral)

This writ petition has been filed with a prayer to quash proceedings, initiated for recovery of amount,regarding which default was committed by father of the petitioner. Petitioner claims that the property indispute is H.U.F. Property and father/defaulter alone, was not sole owner of the same.

Be that as it may, during arguments, by referring to the averments made in the written statement, Mr. Lakhanpal states that Recovery Certificate has been issued against defaulter/father of the petitioner, by invoking provisions of Section 3 of Haryana Public Moneys (Recovery of Dues) Act, 1979. It is contention of counsel for the petitioner that in view of judgment of the Hon'ble Supreme Court in Unique Butyle Industries (P) Ltd v. U.P.Financial Corporation and others,

(2003) 2 Supreme Court Cases, 455, it is not open to the respondents-Corporation, to invoke the provisions of the above said Act.

When confronted with above mentioned averment, Mr. Sehgal, has failed to show anything to the contrary.

In view of facts mentioned above and keeping in view the ratio of judgment of the Hon'ble Supreme Court mentioned anove, recovery proceedings initiated under Section 3 of the Act, referred to above, stand quashed. However, liberty is granted to the respondents-Corporation to pass fresh order for recovery, as per law. If any such action is initiated, Managing Director, is directed to give an opportunity of hearing to the petitioner before issuing Recovery Certificate. Mr Lakhanpal very fairly states that till such time, order is passed by the Managing Director, petitioner shall not sell/alienate the property, indispute.

Disposed of.

(Jasbir Singh)
Judge

Nov 09,2006,
RR

(Pritam Pal)
Judge